



CITY/BOROUGH OF JUNEAU
★ ALASKA'S CAPITAL CITY

HOME RULE CHARTER

OF

THE CITY AND BOROUGH

OF

JUNEAU, ALASKA

(As amended through October 1990)

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PREAMBLE

We, the people of the greater Juneau-Douglas area, exercising the powers of home rule granted by the Constitution of the State of Alaska, in order to provide for local government responsive to the will of the people and to the continuing needs of the community, do hereby ratify and establish this Charter of the City and Borough of Juneau, Alaska.

ARTICLE I – NAME AND BOUNDARIES

Section 1.1. Name of Municipality. The municipality shall be a municipal corporation known as “THE CITY AND BOROUGH OF JUNEAU, ALASKA.”

Section 1.2. Boundaries. On July 1, 1970, the boundaries of the municipality shall be co-extensive with the boundaries of the Greater Juneau Borough existing on June 30, 1970.

ARTICLE II – POWERS

Section 2.1. Powers. The municipality may exercise all powers not prohibited to home rule cities or boroughs by law or by this Charter.

Section 2.2. Construction. The powers of the municipality shall be liberally construed. The specific enumeration of a particular power in this Charter shall not be construed as limiting the powers of the municipality.

Section 2.3. Intergovernmental Relations. The municipality may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by agreement with any one or more local governments, the State, or the United States, or any agency or instrumentality of these governments.

ARTICLE III — ASSEMBLY

Section 3.1. Powers and Duties. The governing body of the municipality shall be the assembly. The assembly shall exercise the legislative and policy-making powers of the municipality and shall provide for the performance of all duties and obligations imposed upon the municipality by this Charter.

Section 3.2. Composition. The assembly shall be composed of nine assemblymembers, one of whom shall be the mayor. (As amended by Serial No. 90-30 § 2 (part), 1990).

Section 3.3. Eligibility. (a) Only a qualified voter of the municipality, who has been a resident of the municipality for at least one year immediately preceding election or appointment to office, shall be qualified for the office of mayor or assemblymember. In addition, an assemblymember shall be a resident of the district from which elected or appointed at the time of the assemblymember's election or appointment.

(b) The assembly shall be the judge of the election and qualifications of its members and of the grounds of forfeiture of their office. For such purposes the assembly shall have power to subpoena witnesses, administer oaths, take testimony, and require the production of evidence. The assembly may enforce these powers by resort to any court of competent jurisdiction.

(c) No assemblymember may hold any other compensated municipal office or employment or elected partisan political office while serving on the assembly. (As amended by Serial No. 90-30 § 2 (part), 1990; Serial No. 77-25 § 4, 1977).

Section 3.4. Election and Terms of Office. (a) The mayor shall be elected from the municipality at large.

(b) Each other assemblymember shall be elected at large by the qualified voters of the municipality and shall be a resident of the district to which the seat they seek is assigned.

(c) The term of office of the mayor and other assemblymembers shall be three years and shall begin immediately following certification of the election at which they were elected.

(d) No assemblymember, other than an incumbent mayor, may be a candidate for mayor unless the assemblymember first resigns from the assembly or unless the assemblymember's term ends concurrently with that of an incumbent mayor. A candidate for the office of mayor may not be a candidate for another assembly position in the same election. (As amended by Serial No. 90-30 § 2 (part), 1990: Serial No. 84-49 § 4, 1984).

Section 3.5. Organization. The assembly shall meet immediately following certification of the election. At such meeting, or within seven days thereafter, the assembly shall elect from its membership a deputy mayor and do such other acts as may be required for its organization and for the conduct of its business. The assembly shall provide by ordinance for the interim order of succession of its members to the office of deputy mayor.

Section 3.6. Vacancies. (a) The office of an assemblymember shall become vacant upon the assemblymember's death, resignation, removal from office in any manner authorized by law or by this Charter, by forfeiture of office, or upon a determination in a manner as provided by ordinance that the assemblymember is medically incapacitated.

(b) The assembly by ordinance shall provide for the filling of vacancies on the assembly. Notwithstanding Section 3.12(e) and Section 3.12(f)(1) of this Charter, if at any time the membership of the assembly is reduced to fewer than five members, the remaining members may by majority action appoint additional members to raise the membership to five.

(c) The assembly shall, by ordinance, provide procedures for the declaration of a temporary vacancy in the office of assemblymember for medical incapacity and provide for the filling of such

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a vacancy on a temporary basis. (As amended by Serial No. 90-30 § 3, 1990; Serial No. 77-32 § 4, 1977).

Section 3.7. Forfeiture of Office. (a) The assembly shall declare by resolution of forfeiture upon which the subject thereof shall not vote that the mayor or an assemblymember has forfeited office if the mayor or the assemblymember:

(1) Lacks any qualification for the office prescribed by this Charter;

(2) Knowingly and willfully violates any express prohibition of this Charter;

(3) Is convicted of a felony involving moral turpitude and the assembly determines that the crime or the circumstances of its commission are of sufficient magnitude for the mayor or the assemblymember to have been shown to be unfit to hold office; or

(4) Fails to attend three consecutive regular meetings of the assembly without being excused by the assembly.

(b) A resolution of forfeiture shall not be passed or be effective unless at least fourteen days prior to assembly consideration of the resolution, the assemblymember against whom the resolution is directed shall have received or have had delivered to his or her last known address, written notice of the specific grounds for the resolution and of the time and place when the resolution will be considered by the assembly. The assemblymember may demand a public hearing by the assembly on the resolution prior to its adoption, and notice of the time and place of the hearing shall be published at the expense of the municipality at least once in a newspaper of general circulation in the municipality. The date of publication shall be at least seven days prior to the hearing.

(c) A recording, capable of transcription, shall be kept of hearings on a resolution of forfeiture. The record shall be composed of the pleadings and the evidence, including testimony and exhibits presented during the proceedings. The assembly by ordinance shall provide rules governing the conduct of hearings on resolutions of

forfeiture. The rules shall provide for the admission of testimony and evidence; the right to call, confront, and cross-examine witnesses; the power of subpoena and subpoena duces tecum; the amount of witness fees and expenses; and the form, extent, and requirements for service and filing of pleadings and exhibits. The rules shall ensure due process of law to all persons involved in the hearing.

(d) Judicial review may be had by filing a complaint within fourteen days of the date of passage of the resolution of forfeiture. The appeal shall be heard by the court sitting without a jury. The court may augment the hearing record in whole or in part or hold a hearing de novo. The court may exercise its independent judgment on the evidence and issues presented by the appeal.

(e) All or so much of the record as is designated by the appellant shall be prepared by the municipal clerk, who will file the original with the court and furnish a copy to the appellant and to the assembly. The court shall not hear the appeal until the costs of preparing the record have been paid to the municipal clerk by the appellant. In determining the appeal the court, if it finds for the appellant, may order that reasonable costs of appeal, including an attorney's fee, be reimbursed to the appellant by the municipality. If the court sustains the resolution of forfeiture, it may order that the appellant pay to the municipality reasonable costs of the appeal, including an attorney's fee. (As amended by Serial No. 90-30 § 4, 1990).

Section 3.8. Mayor. The mayor shall perform all duties required by this Charter or by the assembly. The mayor shall be head of the municipality for ceremonial purposes and be recognized by the Governor for purposes of martial law. The mayor shall not have the veto power. The duties of the mayor shall include but not be limited to the following:

- (a) Preside at meetings of the assembly;
- (b) Be a member of the assembly with all the powers and duties of that office;

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(c) In emergencies, have the powers conferred by law upon peace officers and exercise such powers to prevent disorder, preserve the public peace and health, and to provide for the safety of persons and property. (As amended by Serial No. 90-30 § 5 (part), 1990).

Section 3.9. Deputy Mayor. The deputy mayor shall succeed to the office of mayor when a vacancy occurs in that office. The deputy mayor shall perform the duties and exercise the powers of the mayor when the mayor is absent or unable, as determined by the assembly, to perform the duties of the office. (As amended by Serial No. 90-30 § 5 (part), 1990).

Section 3.10. Compensation. The assembly by ordinance shall provide for compensation of the mayor and other assemblymembers. An increase in compensation shall not take effect until the assembly meeting following the regular election after the ordinance has been adopted. (As amended by Serial No. 90-30 § 5 (part), 1990).

Section 3.11. Restrictions. The assembly shall not recommend or direct the appointment or removal of any officer or employee of the municipal administration except as otherwise provided by this Charter. Except for the purpose of inquiry, neither the assembly nor an individual assemblymember may give either publicly or privately, orders on administrative matters to a subordinate to the manager. (As amended by Serial No. 90-30 § 5 (part), 1990).

Section 3.12. Meetings. (a) The assembly shall hold at least one regular meeting every month at such time and at such place as it may prescribe.

(b) The mayor or any three assemblymembers may call special meetings. At least twenty-four hours before the meeting personal notice shall be given each assemblymember designating the time, place, and purpose of a special meeting or written notice shall be left at each assemblymember's usual place of residence. At least

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twenty-four hours before the meeting copies of the notice shall also be delivered to the newspapers of general circulation in the municipality and to the commercial radio and television stations operating in the municipality. No business may be transacted at any special meeting except as stated in the notice of the meeting.

(c) A special meeting at which a state of emergency is declared and identified by the assembly shall be a legal meeting although proper notice may not have been given of the meeting.

(d) All meetings of the assembly shall be public and the public shall have reasonable opportunity to be heard. The assembly may recess a meeting or proceeding for the purpose of discussing in a closed or executive session any matter the immediate knowledge of which would adversely affect the finances of the municipality or would defame or prejudice the character or reputation of any person, provided that the general subject matter for consideration is expressed in the motion calling for such session, and that action thereon shall not be taken by the assembly in executive session. The mere discussion of persons or finances shall not be cause for an executive session. An assemblymember who calls for an executive session in violation of the provisions of this section shall be deemed to have acted in violation of this Charter.

(e) Five members of the assembly shall be a quorum for the transaction of business. In the absence of a quorum, any number less than a quorum may adjourn a meeting to a later date.

(f) (1) The prevailing vote of at least five members shall be required for official action by the assembly unless otherwise provided by this Charter except that the prevailing vote of at least four members shall be sufficient when two or more members who are present are prohibited by this Charter from voting or have been excused from voting under (f)(3) of this section.

(2) The vote upon all matters considered by the assembly shall be taken by "Yes" or "No" votes which shall be entered upon the record except, where the vote is unanimous, it shall be necessary only to so state.

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(3) Unless otherwise prohibited by this Charter, each assembly-member present shall vote on each question before the assembly for determination, unless excused by the affirmative vote of all remaining members able to vote on the question.

(g) The assembly shall determine its own rules governing the order of business and conduct of its members and shall keep a journal of all its proceedings. The journal of each meeting of the assembly shall be signed by the clerk and countersigned by the mayor. (As amended by Serial No. 90-3 § 6, 1990; Serial No. 77-30 § 4, 1977).

Section 3.13. Attorney. The assembly shall appoint the municipal attorney.

Section 3.14. Personnel System. The assembly shall appoint members of a personnel board, and by July 1, 1971, the assembly by ordinance shall provide a comprehensive personnel system, including but not limited to regulating all appointments, promotions, demotions, suspensions, and removals of municipal officers and employees on the basis of merit.

Section 3.15. Hospital Board. The assembly shall appoint members of a board of directors for municipally operated hospitals. Notwithstanding the provisions of Section 3.16 of this Charter, the board shall derive its authority and power from the assembly by ordinance.

Section 3.16. Other Boards. (a) The assembly by ordinance may create other quasi-legislative, quasi-judicial, or advisory boards and the assembly may appoint the board members or prescribe the method of appointment or removal.

(b) The assembly may grant to boards the power to conduct hearings and make recommendations or decisions. All recommendations or decisions shall be promptly filed with the clerk as a matter of public record. Board decisions shall become final unless notice of an appeal to the assembly is filed with the

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clerk within twenty days of the date on which the board decision was filed. Board decisions may be appealed to the assembly by any party affected by the proceedings, by a member of the assembly, or by a municipal officer or employee.

(c) All questions presented to the assembly concerning any subject which has been delegated to a board shall be submitted first to the board for consideration unless the assembly shall otherwise determine.

(d) Boards shall not be authorized to employ or remove or direct the employment or removal of any municipal officer or employee, except that the personnel board may determine all questions as required by the personnel regulations adopted by the assembly.

(e) The prevailing vote of a majority of the members of a board shall be required for official action except that the prevailing vote may be reduced by one vote for every two members of the board who are present but who do not vote because they have a conflict of interest or have been excused from voting by a vote of all the remaining members who may vote on the question, except that the prevailing vote required may not be reduced to a number less than one-third the membership on the board. A quorum of a board shall consist of a majority of the full membership.

(f) Board meetings shall be conducted as provided for the assembly in Section 3.12(d) of this Charter. (As amended by Serial No. 77-31 § 4, 1977).

Section 3.17. Ordinance Violations. (a) The assembly may prescribe such penalties or combination of penalties as it determines are appropriate for the violation of ordinances and the Charter.

(b) Assembly legislation relating to alcoholism and public drunkenness shall emphasize treatment and prevention rather than imprisonment or levy of fines. To help formulate policy for this purpose, the assembly shall establish a community advisory board on prevention and treatment of alcoholism. (As amended by Serial No. 84-47 § 3, 1984).

Section 3.18. Ombudsman. The assembly by ordinance may establish the office of ombudsman as a part of the legislative branch of the municipality.

Section 3.19. Restriction on Assembly Authority. The assembly may not sponsor, petition, propose, recommend, refer or otherwise act in any way to provide for a change of the Pacific Time Zone applying to the area of the municipality. An ordinance, resolution, motion, order or other legislative authority in effect on the effective date of this section and inconsistent with this section, including but not limited to Resolution 569 of the city and borough of Juneau, Alaska, is of no effect. Promptly upon the effective date of this section, the assembly shall give notice to the United States Department of Transportation of the adoption of this section and shall petition the department for reconsideration of any decision which alters the Pacific Time Zone applying to the area of the municipality. (Adopted by the voters on March 28, 1980, special election).

Section 3.20. Ski Area Board. The assembly shall appoint members of a board of directors for the municipally-operated ski area. Notwithstanding the provisions of Section 3.16 of this Charter, the board shall derive its authority and power from the assembly by ordinance. (Adopted by the voters on October 6, 1981, regular election).

Section 3.21. Docks and Harbors Board. The assembly may establish a board of directors for the municipally-owned or operated docks and harbors and appoint members to the board. Notwithstanding the provisions of Section 3.16 of this Charter, the board shall derive its authority and power from the assembly by ordinance. (Adopted by the voters on October 2, 1984, regular election).

ARTICLE IV — EXECUTIVE

Section 4.1. Manager. There shall be a manager of the municipality. The assembly shall appoint the manager. The assembly may enter into a term contract with a manager. (As amended by Serial No. 90-30 § 7 (part), 1990).

Section 4.2. Qualifications. The manager shall be appointed solely on the basis of executive and administrative qualifications, with particular reference to education, training, and experience as a professional municipal administrator. The assembly by ordinance may set forth specific qualifications. No member of the assembly may be appointed manager unless at least two years have intervened since the expiration of the assemblymember's last term on the assembly and the date of appointment. (As amended by Serial No. 90-30 § 7 (part), 1990).

Section 4.3. Suspension or Removal. The assembly may suspend or remove the manager at any time.

Section 4.4. Acting Manager. If the manager is absent from the municipality or is unable to perform the manager's duties, if the assembly suspends the manager, or if there is a vacancy in the office of manager, the assembly may appoint an acting manager to serve until the manager returns, until the manager's disability or suspension ceases, or until another manager is appointed. The assembly shall replace the acting manager with a permanent manager within a reasonable time, and in no case may an acting manager serve as such for more than one year. An assemblymember may serve as acting manager but first must resign from the assembly. (As amended by Serial No. 90-30 § 7 (part), 1990).

Section 4.5. Powers and Duties. The manager shall be chief administrative officer of the municipality and shall be responsible

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to the assembly. The manager shall execute the provisions of this Charter, all ordinances of the municipality, and all applicable laws. Without limiting the foregoing or excluding other or broader powers consistent therewith, the manager shall:

(a) Appoint or remove all heads of administrative departments and, subject to such personnel regulations as the assembly may adopt, other municipal employees. The manager may authorize any administrative officer to appoint or remove subordinates in the officer's department, subject to such personnel regulations as the assembly may adopt;

(b) Direct the care and custody of all municipal property;

(c) Direct and supervise the construction, maintenance, and operation of municipal public works;

(d) Prepare and submit the annual budget and capital improvements program to the assembly;

(e) Keep the assembly fully advised on the financial condition and fees of the municipality;

(f) At the beginning of each fiscal year, submit to the assembly a report on the financial and administrative activities of the municipality for the preceding fiscal year; within three months after the end of each fiscal year, prepare and make available to the public, at such reasonable price as the assembly may direct, an annual report on municipal affairs during the preceding fiscal year. (As amended by Serial No. 90-30 § 7 (part), 1990).

Section 4.6. Assembly Meetings. The manager shall have the right to take part in the discussion of all matters coming before the assembly.

ARTICLE V — LEGISLATION

Section 5.1. Ordinances. Each proposed ordinance shall be introduced in writing and in the form required by the assembly. The subject of each ordinance shall be expressed in its title. Each

ordinance shall be confined to one subject unless it is an ordinance establishing a budget or one codifying, revising or rearranging existing ordinances. Ordinances establishing budgets shall be confined to such subject.

Section 5.2. Actions by Ordinance. In addition to other actions required by this Charter, those actions of the assembly shall be by ordinance which:

- (a) Establish, alter or abolish any municipal department;
- (b) Provide for a fine or other penalty, or establish a rule or regulation for violation of which a fine or other penalty is prescribed;
- (c) Grant, renew, or extend a franchise;
- (d) Regulate the rate charged for its services by any public utility;
- (e) Establish procedures for acquisition and disposal of lands or rights in lands, including but not limited to requirements for public notice and competitive bidding;
- (f) Adopt or modify the official map, platting or subdivision controls or regulations, or zoning controls;
- (g) Propose a sales or use tax;

(h) Add an areawide service.

Section 5.3. Ordinance Procedure. (a) An ordinance may be presented for consideration only by a member or committee of the assembly or by the manager at any regular or special meeting of the assembly. Upon presentation of an ordinance, copies shall be furnished to each assembly member and to the manager. Upon presentation, an ordinance shall be rejected, deferred, referred to committee, or accepted as being introduced. Promptly after introduction the assembly shall publish the ordinance and a notice setting out the time and place for a public hearing on the ordinance. The public hearing on an ordinance shall follow publication by at least seven days; it may be held at a regular or special assembly meeting and may be adjourned from time to time. At the public hearing copies of the ordinance shall be distributed to all persons present who request them or, in the alternative, the ordinance shall be read in full. All persons shall have an opportunity to be heard. If the ordinance is amended after the hearing as to any matter of major substance, the ordinance shall be treated as a newly-introduced ordinance.

(b) Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified in the ordinance, provided, however, ordinances establishing budgets, fixing mill levies or appropriating funds shall become effective upon adoption unless a later date is specified in the ordinance.

(c) As used in this section, the term publish means that:

(1) As a minimum, a summary of the ordinance and the notice of hearing shall be published in a newspaper of general circulation in the municipality;

(2) Copies of the ordinance and notice of hearing shall be delivered to the newspapers of general circulation in the municipality and to the commercial radio and television stations operating in the municipality;

(3) Copies of the ordinance shall be made available at the clerk's office for public inspection and for distribution at such reasonable price as the assembly may direct. (As amended by Serial No. 77-33 § 4, 1977).

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Section 5.4. Emergency Ordinances. (a) To meet a public emergency, the assembly may adopt emergency ordinances; but emergency ordinances shall not be used to levy taxes; to grant.

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renew, or extend a franchise; to acquire or dispose of property; or to regulate the rate charged by any public utility for its services.

(b) Every emergency ordinance shall be designated as such and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is presented. The affirmative votes of at least six assembly members shall be required for adoption of an emergency ordinance. After adoption of an emergency ordinance the assembly shall have it printed and published as prescribed for other adopted ordinances. An emergency ordinance shall become effective upon adoption or as otherwise provided in the ordinance. An emergency ordinance shall expire ninety days after adoption, unless a different date not to exceed one hundred and eighty days after adoption is fixed by the assembly in the ordinance.

Section 5.5. Codes of Technical Regulations. The assembly may adopt by reference any standard published code of technical regulations, or portion thereof, in a single ordinance. Upon introduction of the ordinance, the assembly shall promptly cause a copy of the standard published code to be provided to each member of the assembly, at least five copies to be made available for public inspection at the office of the clerk, and sufficient additional copies of the code to be made available to the public at such reasonable price as the assembly may direct. The requirements provided in Section 5.3 of this Charter shall apply, except that the code of technical regulations need not be published, included with copies of the ordinance required at the public hearing, or read at the public hearing.

Section 5.6. Signature. Each ordinance shall be signed by the mayor or presiding officer at its adoption and attested by the clerk.

Section 5.7. Codification. (a) After adoption each ordinance and resolution promptly shall be given a serial number. The

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serial number, date of adoption and designation of adopting authority shall appear on the adopted ordinance or resolution, which shall be entered by the clerk of the assembly in a properly indexed book kept for that purpose.

(b) A general codification of all ordinances and resolutions of general effect shall be adopted and shall be kept current through integration of ordinances and resolutions as adopted.

(c) The assembly promptly shall have each adopted ordinance and resolution printed and a notice of each adopted ordinance and resolution published. The printed ordinances and resolutions shall be made available to the public at such reasonable price as the assembly may direct.

Section 5.8. Official Copy. The record of any official proceeding of the municipality or of any ordinance, resolution or code provision may be placed in evidence in any court or tribunal by introduction of a copy thereof certified by the clerk under the seal of the municipality as a true copy of the original.

ARTICLE VI – ELECTIONS

Section 6.1. Regular Elections. A regular election shall be held annually on the first Tuesday in October, or such other date as the assembly may provide by ordinance. The date of holding regular elections shall not be changed by the assembly within one year prior to the date of the first regular election affected. At least thirty days published notice shall be given of a regular election. The notice shall state the purposes of the election.

Section 6.2. Special Elections. The assembly shall provide by ordinance for special elections. At least thirty days published notice shall be given of a special election. The notice shall state the purposes of the election.

Section 6.3. Qualification of Voters. (a) To be eligible to vote at any municipal election, at the time of the election a person shall be:

- (1) Qualified to vote in State elections;

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(2) A resident of the municipality for at least thirty days immediately preceding the election.

(b) The assembly shall provide by ordinance for absentee voting.

Section 6.4. Nominations. Candidates for elective office shall be nominated by a petition signed by at least twenty-five qualified voters of the municipality. No nominating petition may be accepted unless accompanied by a signed acceptance of the nomination.

Section 6.5. Election Procedure. (a) All elections shall be nonpartisan. The assembly by ordinance shall provide for election procedures.

(b) At no time subsequent to 6 p.m. of the day before an election may a person sponsor in any form of mass medium an advertisement which attempts to persuade another to vote for or against a candidate or question. A person who violates this section shall be guilty of a misdemeanor and shall be punishable as the assembly by ordinance shall provide.

Section 6.6. Determination of Election Results. The candidate for each seat who receives the greatest number of votes shall be declared elected. In case of a tie, the election shall be determined by lot from among the candidates tying at a meeting of the assembly and under its direction.

Section 6.7. Election Districts. There shall be one at-large election district comprised of the entire municipality. In addition there shall be two or more individual election districts within the municipality which shall be established to provide clarity of boundaries, compactness of area and substantially equal population to each seat assigned to the district. The assembly shall assign the number of seats to the areawide district and the individual districts as it determines appropriate; provided, not more than three seats may be assigned to the areawide district. (As amended by Serial No. 84-49 § 5, 1984).

ARTICLE VII – INITIATIVE AND REFERENDUM

Section 7.1. Reservation of Powers. The powers of the initiative and referendum are reserved to the people of the municipality with reference to all legislative authority which the assembly may exercise except that the powers of initiative and referendum shall not apply to ordinances establishing budgets, fixing mill levies, or to ordinances or other measures appropriating funds.

Section 7.2. Commencement of Proceedings. (a) Any five qualified municipal voters may commence initiative or referendum proceedings by filing with the clerk an affidavit stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form. The affidavit shall include the names and addresses of the members of the petitioners committee and shall specify the

address to which all notices to the committee shall be sent. The affidavit shall set out in full the proposed initiative ordinance, resolution, or other measure; or cite the ordinance, resolution, or other measure to be referred.

(b) Promptly after the filing of a proper affidavit, the clerk shall issue the appropriate petition pages to the petitioners committee.

Section 7.3. Petition. A petition for initiative or referendum shall be filed in proper form with the clerk within thirty days after the date of issuance of petition pages. The petition shall be signed by a number of qualified municipal voters equal to at least twenty-five percent of the votes cast in the municipality at the preceding regular municipal election. If the subject matter of the petition relates only to a service area, the petition shall be signed by a number of qualified voters residing within the service area equal to at least twenty-five percent of the votes cast in the service area at the preceding regular municipal election. A petition shall be limited to one ordinance, resolution, or other measures.

Section 7.4. Form of Petition. (a) All pages of a petition shall be uniform in size and style. They shall be assembled as one instrument for filing. Each signature shall be executed in ink, and shall be followed by the residence address of the person signing.

(b) Petitions shall contain or have attached to them throughout their circulation the full text of the proposed initiative or referred measure.

Section 7.5. Affidavit of Circulator. When filed each page of a petition shall have attached to it an affidavit executed by the circulator of the petition. The affidavit shall state the number of signatures on the page, that the circulator personally circulated the page, that all the signatures were affixed in the circulator's presence, that the circulator believes them to be the genuine signatures of the persons whose names they purport to be, that each signer had an

opportunity before signing to read the full text of the proposed initiative or referred measure, and that the circulator believes each signer to be a qualified municipal voter. (As amended by Serial No. 90-30 § 8 (part), 1990).

Section 7.6. Examination for Sufficiency. Within ten days following the date on which the petition is filed in proper form, the clerk shall certify the petition if it bears the required number of signatures. The clerk shall send a copy of the certification to the petitioners committee by certified mail, return receipt requested. (As amended by Serial No. 90-30 § 8 (part), 1990).

Section 7.7. Supplemental Petition. If the petition is determined to be insufficient, the clerk shall send notice of insufficiency to the petitioners committee by certified mail, return receipt requested. The petition may be supplemented by additional signatures within ten days following the date of receipt of the notice. Within ten days following the date of supplementary filing in proper form, the clerk shall certify the petition if it is sufficient. Otherwise, the petition shall be rejected and filed as a public record.

Section 7.8. New Petition. Failure to secure sufficient signatures shall not preclude the filing of a new initiative or referendum petition, except that a new petition shall not be filed sooner than six months after a petition which was diligently pursued is rejected on the same or substantially the same matter.

Section 7.9. Withdrawal of signature. A person who has signed an initiative or referendum petition may withdraw the signature at any time prior to the date of filing of the petition or the required supplementary petition by filing with the clerk a signed statement requesting withdrawal. (As amended by Serial No. 90-30 § 8 (part), 1990).

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Section 7.10. Action on Petitions. (a) When an initiative or referendum petition has been determined sufficient, the clerk immediately shall submit it to the assembly. If the assembly fails to adopt a proposed initiative measure without any change in substance within forty-five days or fails to repeal the referred measure within thirty days after the date the petition was determined sufficient, it shall submit the proposed initiative or referred measure to the electorate of the municipality. If the subject matter of the proposed initiative or referred measure relates only to a service area, the measure shall be submitted

only to the electorate of the service area.

(b) The election on a proposed initiative or referred measure shall be held not later than sixty days from the last day on which the assembly action may be completed on the proposed initiative or referred measure. The notice of election shall contain at least a summary of the proposed initiative or referred measure.

(c) Copies of the proposed initiative or referred measure shall be available for distribution to the public at the office of the clerk within a reasonable time before the initiative or referendum election and shall be available for distribution to the voters at the polls.

Section 7.11. Results of Election. If a majority of the qualified voters voting on a proposed initiative measure vote in its favor, it shall be adopted upon certification of the election and shall be treated in all respects in the same manner as if adopted by the assembly. If a majority of the qualified voters voting on a referred measure vote for repeal, it shall be considered repealed upon certification of the election. If conflicting measures are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail.

Section 7.12. Suspension of Referred Measures. (a) When a referred measure has not taken effect, it shall be suspended upon the taking out of a petition by the petitioners committee. The suspension shall terminate when there is a final determination of insufficiency of the petition, no petition is filed within thirty days after the issuance of petition papers, or a majority vote against repeal of a referred measure has been certified.

(b) The provisions of (a) of this section do not apply to emergency measures enacted to meet a public emergency.

Section 7.13. Effect of Election. (a) The assembly shall not, within one year of certification of the election, act in any way to modify or negate the effect of an initiative or referred measure.

(b) An election on an initiative or referred measure shall preclude the filing of a new initiative or referendum petition on

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the same or substantially the same matter sooner than one year after voter approval or disapproval of the initiative or referendum.

ARTICLE VIII – RECALL

Section 8.1. Recall. An elected official of the municipality may be recalled by the voters.

Section 8.2. Grounds. Grounds for recall are malfeasance, misfeasance, nonfeasance, or incompetence in office, or violation of the provisions of this Charter.

Section 8.3. Commencement of Proceedings. (a) Any five qualified municipal voters may commence recall proceedings by filing with the clerk an affidavit stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form. The affidavit shall include the names and addresses of the members of the petitioners committee and shall specify the address to which all notices to the committee shall be sent. The affidavit shall set out the name of the official to be recalled and shall state the grounds of recall with particularity.

(b) Promptly after the filing of a proper affidavit, the clerk shall issue the appropriate petition pages to the petitioners committee.

Section 8.4. Petition. A petition seeking recall shall be filed in proper form with the clerk within thirty days after the issuance of petition pages. The petition shall be signed by a number of qualified municipal voters equal to at least twenty-five percent of the votes cast in the municipality at the preceding regular municipal election.

Section 8.5. Form of Petition. (a) All pages of a petition shall be uniform in size and style. They shall be assembled as one instrument for filing. Each signature shall be executed in ink and shall be followed by the residence address of the person signing.

(b) The name of the official to be recalled and grounds of recall shall appear at the head of each page of a petition circulated.

Section 8.6. Affidavit of Circulator. When filed each page of a petition shall have attached to it an affidavit executed by the circulator of the petition. The affidavit shall state the number of signatures on the page, that the circulator personally circulated the page, that all signatures were affixed in the circulator's presence, that the circulator believes them to be the genuine signatures of the persons whose names they purport to be, that each signer had an opportunity before signing to read the heading of the petition, and that the circulator believes each signer to be a qualified municipal voter. (As amended by Serial No. 90-30 § 9 (part), 1990).

Section 8.7. Examination for Sufficiency. Within ten days following the date on which the petition is filed in proper form, the clerk shall certify the petition if it bears the required number of signatures. The clerk shall send a copy of the certification to the petitioners committee by certified mail, return receipt requested. (As amended by Serial No. 90-30 § 9 (part), 1990).

Section 8.8. Supplemental Petition. If the petition is determined to be insufficient, the clerk shall send notice of insufficiency to the petitioners committee by certified mail, return receipt requested. The petition may be supplemented by addition signatures within ten days following the date of receipt of the notice. Within ten days following the date of supplementary filing in proper form, the clerk shall certify the petition if it is sufficient. Otherwise the petition shall be rejected and filed as a public record.

Section 8.9. New Petition. Failure to secure sufficient signatures shall not preclude the filing of a new recall petition affecting the same official, except that a new petition on the same particular grounds shall not be filed sooner than six months after a petition which was diligently pursued is rejected.

Section 8.10. Withdrawal of Signature. A person who has signed a recall petition may withdraw the signature at any time prior to the date of filing of the petition, or a required supplementary petition, by filing with the clerk a signed statement requesting withdrawal. (As amended by Serial No. 90-30 § 9 (part), 1990).

Section 8.11. Election. (a) There shall be an election on a recall petition within forty days of certification of the petition.

(b) If a vacancy occurs in the office after a recall petition is filed the petition shall not be submitted to the voters.

Section 8.12. Form of Recall Ballots. A recall ballot shall include:

(a) The grounds as stated in the recall petition;

(b) A statement of two hundred words or less by the official to be recalled, if the statement has been filed with the clerk for publication and public inspection at least twenty days before the election;

(c) The following question: "Shall (name of person) be recalled from the office of (office)? () Yes () No"

Section 8.13. Majority Required. The vote of a majority of the qualified voters voting on the question shall be required to recall an officer.

Section 8.14. Subsequent Recall. If an official is not recalled at the recall election, a petition to recall the same official shall not be filed sooner than one year after the recall election, unless grounds for recall occur subsequent to the date of the filing of the last recall petition.

Section 8.15. Filling of Vacancy. If the voters recall an official, the assembly shall fill the vacant office in the same manner and with the same effect as prescribed in Section 3.6 of this Charter for other vacancies.

ARTICLE IX — FINANCIAL PROCEDURES

Section 9.1. Fiscal Year. The fiscal year of the municipality shall begin on the first day of July and end on the last day of June.

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Section 9.2. Submission of Budget, Capital Improvements Program, and Message. (a) By March 1, the manager shall submit to the assembly a budget for the following fiscal year, a capital improvements program, and an accompanying explanatory message of both.

(b) Upon submission, the budget, the capital improvements program, and message shall be a public record available for public inspection and for distribution at such reasonable price as the assembly may direct.

Section 9.3. Scope of Budget. (a) The budget shall be a complete financial plan for all the operations of the municipality, including the education function, showing all reserves, all estimated revenues from all sources, and all proposed expenditures for all purposes.

(b) The budget shall include a comparative statement of actual expenditures and actual revenues for the preceding fiscal year and estimated expenditures and estimated revenues for the current fiscal year.

(c) Proposed expenditures shall not exceed total estimated revenues and reserves.

(d) The assembly by ordinance shall provide for the form of all budgets.

Section 9.4. Scope of Capital Improvements Program. (a) The capital improvements program shall be a plan for capital improvements proposed for the following six fiscal years, together with the estimated cost of each improvement and the proposed method of financing it. It shall contain at least the following:

(1) A summary of current capital improvements which are unfinished;

(2) A simple, clear summary of the detailed contents of the program;

(3) Capital improvements pending or proposed to be undertaken within the ensuing fiscal year, together with the estimated cost of each improvement and the proposed method of financing it.

(b) Capital improvements to be financed in the following fiscal year shall be included in the budget as well as in the

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capital improvements program.

(c) The assembly by ordinance shall provide for the form of all capital improvements programs.

Section 9.5. Scope of Message. The manager's message shall contain an explanation of the budget both in fiscal terms and in terms of work to be done, a description of the important features of the budget, an outline of the proposed financial policy of the municipality for the following fiscal year, and an explanation of each capital improvement to be undertaken within the following six fiscal years.

Section 9.6. Hearing on Budget and Capital Improvements Program. By May 1 a public hearing shall be held on the budget and capital improvements program. All persons interested shall have an opportunity to be heard. At least two weeks prior to the hearing the assembly shall:

(a) Publish in a newspaper of general circulation in the municipality a summary of the budget and capital improvements program and a notice setting out the time and place for a public hearing;

(b) Deliver copies of the notice and summary of the budget and capital improvements program and the message to newspapers of general circulation in the municipality and to the commercial radio and television stations operating in the municipality.

Section 9.7. Assembly Action on Budget. (a) The assembly by ordinance shall adopt a budget by May 31. If it fails to do so, the budget submitted by the manager shall be deemed adopted by the assembly as the budget for the following year.

(b) The assembly by ordinance adopted by June 30 shall provide for the tax levies required in the budget. If it fails to do so, the tax levies required in the budget shall be deemed adopted by the assembly.

Section 9.8. Assembly Action on Capital Improvements Program. The assembly by resolution shall adopt a capital improvements program by May 31. If it fails to do so, the capital improvements program submitted by the manager shall

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be deemed adopted by the assembly.

Section 9.9. Certification and Public Records. (a) The budget and capital improvements program as adopted shall be certified by the manager and the clerk, and shall be a public record.

(b) Copies of the budget and capital improvements program as so certified shall be made available at the clerk's office for distribution to the public at such reasonable price as the assembly may direct.

Section 9.10. Supplemental and Emergency Appropriations. (a) If during any fiscal year there are available revenues received from sources not anticipated in the budget for that year or revenues received in excess of budget estimates, the assembly by ordinance may make supplemental appropriations for the year up to the amount of the additional revenues.

(b) Upon declaration by the assembly that a public emergency exists and describing the emergency in clear and specific terms, the assembly may make emergency appropriations. Such appropriations may be made by resolution and shall be approved by all assembly members present or by seven of its membership, whichever is the lesser number. If there are no available funds to meet such appropriations, the assembly by resolution may authorize the issuance of emergency notes. These notes shall be paid not later than the last day of the fiscal year following that in which the emergency appropriation was made.

Section 9.11. Reduction and Transfer of Appropriations. (a) If during the fiscal year it appears that revenues available will be insufficient to meet the amount appropriated, the manager shall report to the assembly without delay. The assembly by resolution may reduce any appropriation, except for debt service or for cash deficit; no appropriation may be reduced by more than the amount of the unencumbered balance.

(b) The manager may transfer part or all of any unencumbered balance between classification of expenditures within a department, office, or agency, excluding the education function. The assembly by ordinance may transfer part or all of

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any unencumbered balance from one department, office, or agency to another. No transfer may be made from appropriations for debt service or for cash deficit.

Section 9.12. Lapse of Appropriations and Surpluses. Every unencumbered surplus of the general fund or a service area shall lapse at the close of the fiscal year to the general fund or service area, respectively. An appropriation for a capital improvement shall not lapse until its purpose has been accomplished or abandoned.

Section 9.13. Administration of Budget. (a) No payment may be made and no obligation incurred against the municipality except in accordance with appropriations duly made. No payment may be made and no obligation incurred against any appropriation unless the manager ascertains that there is a sufficient unencumbered balance in the appropriation and that sufficient funds are or will be available to cover the obligation.

(b) Every obligation incurred and every authorization of payment in violation of this Charter shall be void.

Every payment made in violation of the provisions of this Charter shall be illegal. All officers or employees of the municipality who knowingly authorize or make such payment shall be jointly and severally liable to the municipality for the full amount so paid. The manager shall proceed forthwith to collect the indebtedness unless otherwise directed by the assembly.

(c) Notwithstanding Section 9.13(a) of this Charter, the assembly by ordinance may require payment of funds from appropriations of a later fiscal year or of more than one year for any contract, lease or note or bond obligation, or federal or state grant, or any other federal or state program that the municipality may not otherwise participate in.

(d) Except as otherwise provided by the assembly by ordinance, the assembly shall provide that all funds of the municipality from whatever source, including the education function, shall be deposited in a central treasury.

(e) Except as otherwise provided by the assembly by ordinance, the assembly shall provide for centralized accounting

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of all accounting functions of the municipality.

(f) Except as otherwise provided by the assembly by ordinance, the assembly shall provide for centralized purchasing of supplies, material, and equipment for the municipality and its departments, offices, and agencies. (As amended by Serial No. 74-34 § 4, 1974; Serial No. 74-33 § 4, 1974; Serial No. 74-32 § 4, 1974).

Section 9.14. Competitive Bidding. The assembly by ordinance shall provide for competitive bidding and procedures for competitive bidding. Contracts for public improvements and, whenever practicable, other purchase of supplies, materials, equipment, and services, except professional services and services of officers and employees of the municipality, shall be by competitive bid and awarded to the lowest qualified bidder. All contracts and purchases exceeding an amount to be established by ordinance shall require prior assembly approval.

Section 9.15. Assessments. All real property to be taxed shall be assessed for tax purposes at full and true market value.

Section 9.16. Enterprise Funds. Revenues from an enterprise, whether established before or after July 1, 1970, shall be first used for debt retirement, construction, acquisition, operation, maintenance, repair, and capital improvement of the enterprise.

Section 9.17. Sales and Use Tax. Any sales or use tax or change in rate thereof shall be by ordinance ratified by a majority of the qualified voters voting on the questions in the affected areas.

Section 9.18. Audits. The assembly shall provide annually for an independent audit of the accounts of the municipality. The audit shall be made by a certified public accountant designated by the assembly.

ARTICLE X – MUNICIPAL BORROWING

Section 10.1. **Types of Obligations Authorized.** Except as prohibited by law and this Charter, the municipality may borrow money and issue such evidence thereof (herein called "obligations") as the assembly may determine, including but not limited to the following:

- (a) General Obligation Bonds
- (b) Special Assessment Bonds
- (c) Service Area Bonds
- (d) Revenue Bonds
- (e) Refunding Bonds
- (f) Bond Anticipation Notes
- (g) Revenue Anticipation Notes.

Section 10.2. **Terms of Obligations.** (a) The assembly shall by ordinance prescribe the purposes, form, terms, conditions, contents, denominations, maturities, manner of execution, covenants, security, options of redemption, and such other matters relating to the issuance and sale of obligations as are deemed necessary and advisable by the assembly.

(b) The assembly shall by resolution prescribe the date, rate or rates of interest, and place or places of payment as related to the issuance and sale of obligations. (As amended by Series No. 74-36 § 4, 1974).

Section 10.3. **General Obligations of Municipality.** No general obligation indebtedness of the municipality may be incurred unless authorized for capital improvements by the assembly and ratified by a majority of the qualified voters voting on the question; provided however, that the assembly by ordinance may issue notes in anticipation of the issuance of general obligation bonds without a vote when such bonds have been so ratified.

Section 10.4. **General Obligations of Service Areas.** No obligation secured by a pledge of taxes to be levied in a service area may be issued unless authorized for capital improvements by the assembly and ratified by a majority of the qualified voters in the service area voting on the question; provided

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however, that the assembly by ordinance may issue notes in anticipation of the issuance of bonds so secured without a vote when such bonds have been ratified by the voters. In a service area where there are no qualified voters to vote on the question, voter ratification shall not be required. Obligations secured by a pledge of taxes to be levied in a service area may be additionally

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secured by a pledge of the full faith and credit of the municipality when so provided by the assembly and ratified by a majority of the qualified voters voting on the question.

Section 10.5. Notice of Bond Election. (a) Before holding any election required by this article the assembly shall cause a notice of election to be published once a week for three consecutive weeks in a newspaper of general circulation in the municipality. The first publication shall be at least twenty (20) days prior to the date of election. For elections ratifying the issuance of general obligation bonds of the municipality or service area obligations additionally secured by a pledge of the full faith and credit of the municipality the notice shall contain the following information:

(1) The amount of the bonds, purposes of issuance, length of time within which the bonds shall mature and the maximum interest rate the bonds shall bear;

(2) The amount of the estimated annual debt service on the proposed bonds;

(3) The amount of the current total general obligation indebtedness of the municipality including authorized but unsold general obligation bonds;

(4) The amount of the current year's debt service on the outstanding general obligation bonds of the municipality;

(5) The current total assessed valuation within the municipality.

(b) For bonds secured by a pledge of taxes to be levied in a service area the notice shall also contain the information required in (3), (4), and (5) relative to the service area.

(c) Errors contained in information required in (2), (3), (4), and (5) with regard to the municipality or a service area shall not invalidate any election unless such errors are substantial. Actions challenging the sufficiency of any notice of election must be brought within the time provided in Section 10.11 of this Charter.

Section 10.6. Manner of Sale. All obligations may be sold in the manner directed or authorized by the assembly. (Adopted by the voters on October 4, 1983, regular election).

Section 10.7. Sale Price. All obligations other than revenue bonds shall be sold at a price of not less than par plus accrued interest to the date of delivery. Revenue bonds shall be sold at a price of not less than \$96 per \$100 par value.

Section 10.8. Sale to Financial Consultants. No person who is retained by the municipality to perform services relating to financial programming or marketing assistance in connection with the issuance and sale of obligations may negotiate with the municipality directly or indirectly for the purchase and sale of such obligations at private sale. In the event any such person violates this provision the contract for such services shall be null and void and the person shall not be entitled to any compensation for services rendered and in addition the person shall be liable for any damages sustained by the municipality in connection with such purchase and sale. Violation of the provisions of this section shall not invalidate the obligations. (As amended by Serial No. 90-30 § 10, 1990).

Section 10.9. Lapse of Authorization. Every obligation shall be sold within the ten years next following the adoption of the ordinance authorizing its issuance or the ratification of such issuance by the qualified voters of the municipality, whichever is later, except when such sale has been delayed by an action to determine the validity of the proceedings authorizing the issuance of such obligation, in which case the period of such delay may be added to said ten years. Authorization for obligations not sold within the time limits provided shall lapse.

Section 10.10. Use of Proceeds of Sale. Each obligation shall contain on its face a general statement of the purpose for which it is issued. No officer of the municipality may use the proceeds thereof for any other purpose, except that whenever the proceeds of any obligation or part thereof remain unexpended and unencumbered

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for the purpose for which the indebtedness was incurred, the assembly shall authorize the use of such unexpended and unencumbered funds only in accordance with the following order of priority unless the

particular obligations have been fully retired or provision is made for payment thereof and a different order of priority is approved at a municipal election:

- (a) For retirement of such obligations.
- (b) If such obligations have been fully retired or provision has been made for the retirement thereof, then for the retirement of other obligations of the municipality.
- (c) For any other public improvement purpose or purposes of a like nature to the purpose for which the obligations were issued.
- (d) If such proceeds cannot be used as provided in paragraphs (a), (b), and (c) of this section, then in any other manner determined by the assembly.

Section 10.11. Actions Challenging the Validity of Obligations. No action challenging the validity of any obligation may be maintained unless instituted within thirty days from the date of certification of the results of the election ratifying the issuance of such obligation or thirty days from the effective date of the ordinance authorizing the issuance of such obligation when ratification is not required.

Section 10.12. General Obligations Not Requiring Ratification. The assembly may authorize the following general obligation bonds or notes without requiring ratification of the qualified voters:

- (a) Disaster bonds or notes to be issued in case of calamity which has caused great loss for the preservation, rehabilitation, or reconstruction of municipal capital improvements;
- (b) Notes for loans from accumulated reserves of the municipality on a definite plan for the repayment thereof and of interest thereon as provided by ordinance.

Section 10.13. Interest and Profits From Investments. All interest earned on and profits derived from the investment of the proceeds of the sale of any obligations shall be used solely for the purposes for which such obligations were issued.

ARTICLE XI – SERVICE AREA

Section 11.1. Purpose. Service areas may be established to provide services not provided on an areawide basis or to provide a higher level of service than that provided on an areawide basis.

Section 11.2. Establishment. (a) The assembly by ordinance may establish, alter, consolidate, or abolish service areas. The assembly by ordinance may add or eliminate services to a service area. The ordinance shall contain the following:

- (1) Boundaries and area to be included;
- (2) Service to be provided or be eliminated; and
- (3) Other provisions the assembly includes.

(b) If a petition of protest is filed with the assembly before the effective date of the ordinance adopted under this section, the ordinance shall be submitted to the qualified voters residing in the service area or proposed service area and if ratified shall take effect upon certification of the election. The petition shall contain signatures of at least ten per cent or 100 of the qualified voters residing in the service area, or proposed service area, whichever is the lesser. Each new service or each service to be eliminated shall be placed separately on the ballot and shall require ratification by a majority of the qualified voters voting on the question. There shall be no election under this subsection to eliminate a service to be provided on an areawide basis.

Section 11.3. Criteria. (a) A new service area shall be established only after assembly determination that such services cannot be provided reasonably by an existing service area or by alteration of an existing service area.

(b) Service areas shall be established according to criteria of need and economic operating efficiency and shall comprise the area to which the services shall be provided.

Section 11.4. Financing. The assembly may levy taxes, assessments or other charges within a service area to finance the services, and funds thereby raised shall not be used for any purpose outside of the service area, provided, however, revenues from non-property taxes and charges which are in excess of

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those required to finance the services provided by the service area may be used to offset a part of the areawide property tax levy within the service area. (As amended by Serial No. 77-26 § 4, 1977).

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Section 11.5. Boards. The assembly may appoint boards from each service area to make recommendations concerning services in that service area.

ARTICLE XII – LOCAL IMPROVEMENT DISTRICTS

Section 12.1. Purpose. Local improvement districts may be established for special assessments upon real property in a limited and determinable area for special benefits conferred upon the property by any municipal improvement and to provide for the payment of all or any part of the costs of the improvement out of the proceeds of special assessments.

Section 12.2. Local Improvement Procedure. The assembly by ordinance shall prescribe procedures for establishment of local improvement districts and for agreements for furnishing capital improvements and the extension thereof in lieu of assessments.

Section 12.3. Assessment in Proportion to Benefit. The assembly by ordinance shall establish the method of apportioning and assessing the cost of improvements upon benefited real property. Costs shall be assessed against real property specially benefited in proportion to the benefits.

Section 12.4. Protests. If protests as to the necessity for any local improvement are made by owners of benefited real property which will bear 50 per cent or more of that portion of the estimated cost of the improvement which will be borne by owners of benefited real property, the improvement shall not proceed until the protests have been reduced so that the real property of those still protesting shall not bear 50 per cent of the said estimated cost of the improvement; provided however, that the assembly by ordinance may authorize the improvement by an affirmative vote of eight members.

Section 12.5. Limitations on Actions. No special assessment procedure may be contested by an action at law or in equity unless commenced within sixty days after the confirmation of

the special assessment roll.

Section 12.6. Lien. The municipality shall have a lien after taxes upon all real property against which special assessments are assessed, for the special assessments and collection charges, penalties, and interest which accumulate. The lien is paramount and superior to any other lien created before or after the assessment except a lien for a prior assessment and for taxes. Assessments shall become due and payable at such time or times in one or more installments and bear such interest and such penalty for delinquency as the assembly by ordinance shall prescribe. The assessment lien shall be enforceable in the same manner as a lien for municipal taxes.

Section 12.7. Property Liabie. All real property, including property exempt from taxation as provided by law, shall be liable for the cost of local improvements unless specifically exempted by ordinance.

Section 12.8. Expenditures Prior to Improvement. No expenditure, except for administrative, planning, engineering, and legal work for any local improvement, the cost of which is to be borne by special assessments on the real property benefited, may be made unless funds have been authorized to finance the expenditures. All expenditures under this section shall be repaid to the source thereof from improvement funds which become available.

Section 12.9. Receipts. Accounts for local improvement districts shall be kept separate from other municipal accounts. Revenues from special assessments shall be used solely to pay the cost of the principal of or interest on indebtedness and improvements to which they apply.

Section 12.10. Correction of Invalid Special Assessments. If a special assessment procedure is irregular or invalid for any reason, the assembly may correct it within ninety days after the confirmation of the special assessment roll or after final determination of any litigation thereon. If payments have been made under an irregular or invalid procedure, such payments

shall be credited to payments required under the corrected procedure, or in the alternate the assembly by ordinance shall provide for refunds.

ARTICLE XIII — PUBLIC SCHOOLS

Section 13.1. Public School System. The system of public schools for the municipality shall be operated by a board of education, pursuant to law, except as otherwise provided by the Charter.

Section 13.2. Board of Education. (a) The board of education shall be composed of seven members or such number required of home rule municipalities by law.

(b) Board members shall be elected at large by the qualified voters of the municipality at regular municipal elections.

(c) The term of office of board members shall begin immediately following certification of the election.

Section 13.3. Vacancies. The office of a board member shall become vacant upon the member's death, resignation, removal from office for cause by a vote of two-thirds of the members of the board, or upon forfeiture of office.

(a) "Cause" means:

(1) Incompetency which is the unintentional or intentional failure to perform the duties of a board member; or

(2) Conviction of a felony involving moral turpitude, and the board determines that the crime or circumstances of its commission are of sufficient magnitude for the board member to have been shown to be unfit to hold office.

(b) A board member shall forfeit office if the board member:

(1) Lacks any qualification prescribed by law; or

(2) Fails to attend three consecutive regular meetings of the board without being excused by the board.

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duties provided by Title XIV, Alaska Statutes, consistent with this Charter, including but not limited to the following:

(a) Set the broad, general policy for the operation of public schools in the municipality;

(b) Establish the educational policy including but not limited to approval of curriculum study guides, curriculum materials and textbooks;

(c) Serve as a board of appeals for certificated education personnel appealing decisions of the superintendent;

(d) Be responsible for the appointment, promotion, demotion, suspension, removal, compensation, and control of all school employees and administrators and hear and determine grievances related thereto. For these purposes, the board shall be controlled by and derive its powers, duties and guidelines from the following sources, which are listed in direct order of priorities should any inconsistencies arise in the provisions thereof:

(1) The provisions of this Charter.

(2) Title XIV, Alaska Statutes.

(3) The provisions of the municipality's comprehensive personnel system plan, enacted pursuant to Section 3.14 of this Charter.

(e) Meet at least once a month with meetings open to the public.

Section 13.5. Public Meetings. All meetings shall be conducted as provided for the assembly in Section 3.12(d) of this Charter.

Section 13.6. Budget. (a) Upon submission to the board by the superintendent, the school budget shall be a public record available for public inspection and for distribution at such reasonable price as the board may direct. The board shall hold a public hearing on the school board budget before approval and submission to the assembly for final action.

(b) The board shall submit the annual budget for the following school year to the assembly by March 1 of the current year for approval of the total amount. By April 15, the assembly shall determine the amount to be made available from local sources for school purposes, and shall furnish the board

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with a statement of the sum to be made available. If by April 15, the assembly does not furnish the board with a statement of the sum to be made available, the amount requested in the budget is automatically approved.

Section 13.7. Administration of Budget. No payment may be made and no obligation incurred except in accordance with appropriations duly made. No payment may be made and no obligation incurred against any appropriation unless the superintendent ascertains that there is a sufficient unencumbered balance in the appropriation and that sufficient funds are or will be available to cover the obligation. After adoption of the school budget by the assembly, the board shall not exceed the total budget without assembly approval.

Section 13.8. Capital Improvements. (a) The board shall make recommendations to the assembly concerning the necessity for school construction and other capital improvements, site selection, employment of architects, and building plans. The board shall submit preliminary plans to the assembly for suggestions before recommending final plans.

(b) Decisions by the assembly shall be final in all matters concerning school construction and other capital improvements, site selection, employment of architects, and building plans.

(c) The assembly shall appoint a four-man committee from its membership which shall deliberate with the board in formulating all plans to be recommended under Section 13.8(a) of this Charter.

Section 13.9. School Maintenance. The board, unless specifically transferring such responsibilities to the assembly, shall provide custodial services and routine maintenance for school buildings and shall provide employees for these purposes. The assembly shall provide major maintenance and all rehabilitation, repair and construction of school buildings.

Section 13.10. Joint Conference. The assembly and board shall meet jointly at least twice a year at public meetings to deliberate upon matters of mutual interest. Minutes of the board shall reflect the business carried on at such meetings.

ARTICLE XIV — CHARTER AMENDMENT

Section 14.1. Charter Amendment. Charter amendments may be proposed and adopted only in the manner set forth in this Article and as provided in Section 6.8 of this Charter.

Section 14.2. Proposal by the Assembly. The assembly may propose Charter amendments by ordinance containing the full text of the proposed amendment and adopted by at least six votes of the assembly.

Section 14.3. Proposal by Voters. The voters may propose Charter amendments by petition governed by the same procedures as prescribed for initiative petitions in Sections 7.2 through 7.9 of this Charter. No petition for proposed amendments may contain more than one subject.

Section 14.4. Proposal by Charter Commission. (a) Every ten years subsequent to 1970 the clerk shall place on the ballot for the next regular election the question: "Shall there be a Charter Commission to review or amend the Charter?" If a majority of the qualified voters voting on the question vote "no," the question shall not be placed on the ballot until the end of the next ten year period. If a majority of the qualified voters voting on the question vote "yes," nine qualified voters to serve as the Charter Commission shall be chosen at the next regular election or at a special election. The commission members shall be elected on the same basis of representation as assemblymembers. A vacancy shall be filled by the commission with a qualified voter representing the same area as the vacating member.

(b) Costs, fees, and other expenses of the Charter Commission shall be paid by the municipality. The assembly shall provide compensation for commission members.

(c) The Charter Commission by majority vote of its full membership shall adopt rules governing its organization and procedures. All meetings shall be open to the public.

(d) The Charter Commission shall have plenary power to review the Charter and may, by a vote of at least five of its membership, propose amendments to the Charter. (As amended by Serial No. 90-30 § 12, 1990).

Section 14.5. Election. (a) Proposed amendments shall be submitted to the qualified voters of the municipality at an election announced by a notice containing the full text of each proposed amendment and published in a newspaper of general circulation in the municipality at least thirty days before the date of the election. At least thirty days before the date of the election copies of the notice shall be delivered to newspapers of general circulation in the municipality and to commercial radio and television stations operating in the municipality.

(b) The election shall be held not less than sixty days and not more than one hundred and twenty days after the amendment has been proposed. If no regular election is to be held within that period, the assembly shall provide for a special election on the proposed amendment. The ballot shall provide voters a choice to vote "For the Amendment" or "Against the Amendment."

(c) If a majority of the qualified voters voting on a proposed amendment vote for it, the amendment shall become effective at the time fixed in the amendment or, if no time is fixed, thirty days after certification of the election.

ARTICLE XV — GENERAL PROVISIONS

Section 15.1. Personal Financial Interest. (a) No assembly-member may vote on any question on which the assemblymember has a substantial financial interest. Any municipal officer, employee, or assemblymember who has a substantial financial interest in any contract with the municipality or in the sale of any land, material, supplies, or services to the municipality or to a contractor supplying

the municipality shall make known that interest and shall refrain from participating in his or her capacity as a municipal officer, employee, or assemblymember in the making of such sale or in the making or performance of such contract.

(b) Any municipal officer, employee, or assemblymember who conceals such financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office and shall forfeit office or employment. Violation of this section with the knowledge express or implied of the person contracting with or making a sale to the municipality shall render the contract or sale voidable by the manager or the assembly.

(c) The assembly by ordinance shall prescribe additional rules and penalties to prevent conflicts of interest. (As amended by Serial No. 90-30 § 13, 1990).

Section 15.2. Prohibitions. (a) No person may be discriminated against in any municipal appointment, employment, or promotion because of race, sex, color, political or religious affiliation, or national origin.

(b) No person may willfully falsify any test, certification, or appointment under the personnel regulations, or in any manner commit or attempt to commit any fraud to prevent the impartial execution of such regulations.

(c) No person may offer, give, or receive any money, service, or other valuable thing to influence municipal appointment, employment, or promotion.

(d) No assemblymember, municipal officer, or administrative employee may directly or indirectly solicit a contribution for any political party or purpose from any person holding a compensated municipal position. (As amended by Serial No. 90-30 § 14, 1990).

Section 15.3. Surety Bonds. The manager and other municipal officers or employees as the assembly shall require by ordinance

shall give reasonable bond in the amount and with the surety prescribed by the assembly. Premiums shall be paid by the municipality.

Section 15.4. Oath of Office. Before taking office, every elected and appointed municipal officer shall take and subscribe an oath or affirmation of office as the assembly may require.

Section 15.5. Continued Office. Every officer who is elected or appointed for a term ending at a definite time shall continue to serve until the officer's successor qualifies and takes office, except in cases of death, resignation, or termination by law or this Charter. (As amended by Serial No. 90-30 § 15, 1990).

Section 15.6. Municipal Proceedings. The Assembly by ordinance shall establish procedures governing administrative proceedings in which legal rights, duties, privileges or penalties of persons are to be determined; insure fair and equal treatment of all persons involved in such proceedings; and provide for the conduct of such proceedings in an orderly and uniform manner.

Section 15.7. Records to be Public. All records of the municipality shall be public except as otherwise provided by law. Records shall be available at municipal offices for public inspection and for distribution at such reasonable price as the assembly may direct. Copies certified by the clerk shall be prima facie evidence of their contents.

Section 15.8. Adverse Possession. The municipality may not be divested of title to real property by adverse possession.

Section 15.9. Actionable Claims. Except as provided in Section 15.10 of this Charter, provisions of law governing claims against municipal corporations apply to claims actionable against the municipality.

Section 15.10. Claims for Injuries. (a) The municipality shall not be liable in damages for injury to person or property by reason of negligence or gross negligence unless, within four months after the injury occurs, the person damaged or the person's representative serves written notice to an officer upon whom process may be served. The notice shall state that the person intends to hold the municipality liable for damages and shall set forth with clarity the time and place of the injury, the manner in which it occurred, the nature of the act or defect complained of, the extent of the injury so far as known, and the names and addresses of witnesses known to the claimant.

(b) No person may bring an action against the municipality for damages to person or property by reason of negligence or gross negligence unless the action is brought within the period prescribed by law and the person has first presented to the manager a claim in writing under oath setting forth specifically the nature and extent of the injury and the amount of damages claimed. The manager shall promptly present the claim to the assembly for action.

(c) Failure to give notice of injury or to present a claim within the time and in the manner provided shall bar any action upon the claim.

(d) This section does not waive any defense of immunity which the municipality may have from claims for damages to persons or property. (As amended by Serial No. 90-30 § 16, 1990).

Section 15.11. Dissolution. The municipality may be dissolved as provided by law and with the effect prescribed by law for dissolution of first class cities.

Section 15.12. Separability. If any provision of this Charter is held invalid, other provisions shall not be affected. If the application of this Charter or any of its provisions to any person or circumstance is held invalid, the application of this Charter or any of its provisions to other persons or circumstances shall not be affected.

Section 15.13. Chapter and Section Headings. Chapter and section headings shall not be considered a part of the Charter.

Section 15.14. Definitions. Words used in this Charter shall have their ordinary dictionary meanings, except as otherwise specifically indicated by the context or defined herein.

(a) All words indicating the present tense are not limited to the time of adoption of this Charter, but may extend to and include the time an event or requirement occurs to which any provision is applied.

(b) The singular includes the plural and the plural includes the singular.

(c) "Code" means the general codification of all ordinances and resolutions of general effect, including all amendments and additions.

(d) "Disaster" means a sudden unforeseen misfortune which has resulted in calamitous destruction of life or property.

(e) "Emergency" means a sudden, unforeseen occurrence or condition which results in a relatively permanent insufficiency of service or facilities substantial enough to create social disturbance or distress or to endanger the public. Emergency does not mean mere expediency, convenience, or best interest.

(f) "Law" denotes applicable federal law, the Constitution, and state statutes.

(g) "Municipality" means the unified municipality named in Section 1.1 of this Charter.

(h) "Person" extends and applies to bodies politic and corporate, and to partnerships and associations and other legal entities as well as to individuals.

(i) "Publish" or "published" includes the setting forth of any matter for public notice in the manner provided by law, or where there is no applicable law, publishing at least once in one or more newspapers of general circulation in the municipality and qualified by law for the publication of legal notices.

(j) "State" means the State of Alaska. (As amended by Serial No. 90-30 § 17, 1990).

ARTICLE XVI — TRANSITIONAL PROVISIONS

Section 16.1. Legal Succession. On July 1, 1970, the municipality shall be the legal entity and municipal corporation succeeding all local governments within the area unified.

Section 16.2. Pre-unification Assets and Liabilities. (a) The municipality shall succeed to all assets and liabilities of the local government unified. Liabilities incurred prior to unification shall remain the tax obligation of the area which contracted the debt. Assets owned by a local government prior to unification shall continue to be utilized for the benefit of the area of the local government which owned the asset, except those assets of a local government which were used for the benefit of a larger area prior to unification shall continue to be so used.

(b) The tax obligation of an area for bonded indebtedness or other liability incurred prior to unification may be spread over a larger area by ordinance if the asset, for which the bonded indebtedness or other liability was incurred, was used for the benefit of the larger area prior to unification.

(c) (1) The value of assets, owned by a local government prior to unification which were used for the benefit of a larger area prior to unification, may by ordinance, approved by at least six members, be credited to the area of the local government on a pro-rata basis over not more than five years for personal property and 20 years for real property. Value for purposes of tax credit shall be the lesser of the local

contribution in the asset or its present value.

(2) The assembly, by ordinance approved by at least six members, may determine which assets owned by a local government prior to unification and used solely for the benefit of the local government prior to unification shall be used for the benefit of a larger area. The value of such assets shall be credited to the area of the local government on a pro-rata basis over not more than five years for personal property and twenty years for real property. Value for purposes of tax credit shall be the lesser of the local contribution in the asset or its present value. The tax obligation for bonded indebtedness or other liability associated with such an asset shall become the tax obligation of the larger area.

(d) Pre-unification bonded debt for sewage collection systems, storm drain systems, water distribution systems, and streets shall remain the tax obligation of the area which incurred the debt unless spread over a larger area by ordinance ratified by the qualified voters voting on the question in the area over which the debt is to be spread.

(e) All revenues derived from the sale of undeveloped municipal land located within the cities of Juneau and Douglas shall be utilized by their respective successors upon adoption of this Charter. This special allocation of revenues shall terminate June 30, 1990, or upon complete payment of their respective pre-unification bonded indebtedness, whichever occurs first.

(f) All revenues derived from the leasing of municipal real property located within the cities of Juneau and Douglas shall be utilized by their respective successors upon adoption of this Charter. This special allocation of revenues shall terminate June 30, 1990, or upon complete payment of their respective pre-unification bonded indebtedness, whichever occurs first.

(g) As used in this section, "successors" means service areas until such time as the service areas cease to exist, whereupon "successors" shall mean the successor entity to the service area.

(h) Budgetary surpluses and/or reserve accounts from whatever source of a local government or service area existing on June 30, 1970, shall be credited to the area of the former local government or service area.

Section 16.3. State Subventions. State subventions,

including but not limited to business license tax, fish processors tax, liquor license tax, electric and telephone cooperative tax, amusement and gaming device tax, aviation fuel tax, and state-shared revenues, shall be allocated within the municipality as follows:

(a) Subventions made to a city or borough or both and provided for by law enacted subsequent to December 31, 1969, not specifically earmarked for use shall be deposited in the municipality's general fund, unless specifically earmarked for use by the assembly by ordinance.

(b) Aviation fuel tax subventions shall be used for airport purposes in accordance with Section 9.16 of this Charter.

(c) Subventions authorized by law prior to December 31, 1969, shall be allocated for use in the former cities of Juneau and Douglas and in the Greater Juneau Borough in the same manner as provided by law prior to December 31, 1969.

(d) This section shall expire June 30, 1975, and the assembly shall then determine by ordinance the method by which state subventions shall be allocated or earmarked for use.

Section 16.4. Pre-unification Sales and Use Tax. All revenues from sales and use tax, as long as such tax is continued, shall be allocated for use in the former cities of Juneau and Douglas and in service areas, as provided by the respective ordinances in effect prior to unification; provided, the assembly may change preunification dedications by ordinance. (As amended by Serial No. 75-05 § 4, 1975).

Section 16.5. Election of Assembly. An election for assemblymembers shall be held six weeks following the election for ratification of this Charter. The assembly shall meet and organize within ten days of certification of the election. (As amended by Serial No. 90-30 § 18 (part), 1990).

Section 16.6. First Election. (a) At the first election held under this Charter:

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- (1) A mayor shall be elected to serve until October, 1973;
 - (2) One assemblymember from District No. 1 and one assemblymember from District No. 3 shall be elected to serve until October, 1973;
 - (3) One assemblymember from District No. 1, the assemblymember from District No. 2, and one assemblymember from District No. 3 shall be elected to serve until October, 1972;
 - (4) Two assemblymembers from District No. 1 and one assemblymember from District No. 3 shall be elected to serve until October, 1971.
- (b) At the first meeting of the assembly, assemblymembers other than the mayor and the assemblymembers from District No. 2 shall determine by drawing of lots who shall serve initial one, two, and three year terms respectively. (As amended by Serial No. 90-30 § 18 (part), 1990).

Section 16.7. Salary. Assemblymembers shall receive an initial monthly salary of Two Hundred and Fifty Dollars (\$250), except that the mayor shall receive an initial monthly salary of Three Hundred Dollars (\$300.00). (As amended by Serial No. 90-30 § 18 (part), 1990).

Section 16.8. Effective Date. (a) At the first meeting of the assembly, the provisions of this Charter shall be in effect insofar as they are applicable to the appointment of a manager, preparation and adoption of the initial budget, and general organization of the municipality. Costs thereby incurred shall be paid from areawide funds of the Greater Juneau Borough upon proper verification. The chief administrators of local governments to be dissolved shall submit a budget for their jurisdictions to the assembly within thirty days after its first meeting.

(b) This Charter shall take effect on July 1, 1970. The City of Juneau, City of Douglas, and the Greater Juneau Borough shall be

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dissolved on that date. The terms of members of the former governing bodies shall expire on that date.

(c) Upon certification of the election, all officers, employees, departments, offices, committees, and boards of local governments to be dissolved shall cooperate with and assist the assembly to facilitate unification in the most orderly fashion. All records, files, and other data in possession of local governments to be dissolved shall be available for inspection by the municipality.

(d) Within two months of the date of passage of this Charter, the present City Councils of Juneau and Douglas shall each submit to the assembly a list of names from which the new assembly shall select two five-member advisory boards, each to serve for a period of two years. Vacancies shall be filled by the assembly from names submitted by the remaining members of

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the respective board. These boards shall be appointed prior to June 30, 1970, and shall commence their responsibilities as advisory boards upon appointment.

Section 16.9. Personnel. On July 1, 1970, all local governmental officers and employees, except for elected officials and the manager of the City of Juneau, shall continue in employment until the assembly adopts a personnel classification and organization plan, subject to Section 4.5 of this Charter. Personnel shall receive salaries and benefits enjoyed under their former employment until the assembly adopts a uniform salary and benefit schedule which shall take effect no later than July 1, 1971. The provision of Article IV Section 4-4 of the Juneau City Charter will apply to employees of the municipality until the assembly adopts a personnel plan under Section 3.14 of this Charter.

Section 16.10. Functions to Continue. Subject to Article XI of this Charter, service areas in existence on June 30, 1970, shall continue to exist. The area of the former cities of Douglas and Juneau shall each comprise a service area. The functions of local governments and service areas being exercised immediately prior to July 1, 1970, may continue insofar as consistent with this Charter, except that the assembly may alter, consolidate, or abolish service areas and may add or eliminate services as provided by this Charter.

Section 16.11. Ordinances and Resolutions. To the extent not inconsistent with this Charter, ordinances, resolutions, and orders of local governments to be dissolved shall continue in full force and effect in their respective jurisdictions until no later than July 1, 1972, when they shall expire, unless, after substantive review by the assembly, each ordinance, resolution, or order has been expressly reaffirmed, revised, or repealed. Prior to March 1, 1972, the municipal attorney shall prepare a comprehensive substantive study of existing ordinances and resolutions to aid the assembly in adopting an integrated code.

Section 16.12. Boards. After July 1, 1970, all appointed committees, commissions, and boards of local governments to

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be dissolved shall be abolished except those having areawide jurisdiction and those established under the City of Juneau Model City program, the City of Douglas B. O. R. Sandy Beach recreation project, and other federal programs. These shall function until December 31, 1971, unless reaffirmed, reorganized, or abolished by the assembly.

Section 16.13. Board of Education. Members of the Greater Juneau Borough Board of Education in office on June 30, 1970, shall be entitled to serve on the board of education of the municipality until the expiration of their term.

Section 16.14. Continuance of Actions. (a) The adoption of this Charter shall not abate or otherwise affect any action, cause of action, claim, or proceeding, civil or criminal, by or against a local government to be dissolved, and which had accrued by June 30, 1970.

(b) All applications, petitions, hearings, and other proceedings pending on June 30, 1970, before a local government to be dissolved shall be continued before the municipality.

Section 16.15. Records. On July 1, 1970, all records, files, and other data of local governments to be dissolved shall become the property of and be in the control of the municipality.

Section 16.16. Post Audit. Audits of the fiscal year ending June 30, 1970, shall be according to uniform standards. Costs shall be paid from assets of the former local governments.

Section 16.17. Penalties. By July 1, 1971, the assembly by ordinance shall prescribe penalties for violations of this Charter if no penalty is prescribed in this Charter.